

**Introduced by Senator Cannella**

February 10, 2011

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An act to amend, repeal, and add Section 11100 of the Health and Safety Code, relating to controlled substances.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 260, as introduced, Cannella. Controlled substances.

Existing law generally provides that any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes to any person or entity in this or any other state any of a list of substances shall submit a report to the Department of Justice of all of those transactions, as specified. Any person who does not submit a report as required, or who submits a false report is guilty of a crime.

This bill would, until January 1, 2015, require those reports to be submitted monthly.

Existing law provides, however, that the above reporting requirements are not applicable to, among others, any specified manufacturer or wholesaler licensed by the California State Board of Pharmacy or any analytical research facility that is registered with the federal Drug Enforcement Administration of the United States Department of Justice.

This bill would, until January 1, 2015, delete the exemption from the reporting requirements for specified manufacturers or wholesalers licensed by the California State Board of Pharmacy. The bill would, until January 1, 2015, revise the exemption from the reporting requirements relating to analytical research facilities to provide that the exemption shall apply to any analytical research facility that purchases no more than 200 milliliters of a liquid controlled chemical substance or one kilogram of a solid controlled chemical substance, except in the

case of the purchase of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, in which case the facility may purchase no more than 9 solid grams.

Because this bill would make existing crimes applicable to a new category of persons or entities, this bill would impose a state-mandated local program upon local governments.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11100 of the Health and Safety Code is  
2 amended to read:

3 11100. (a) Any manufacturer, wholesaler, retailer, or other  
4 person or entity in this state that sells, transfers, or otherwise  
5 furnishes any of the following substances to any person or entity  
6 in this state or any other state shall submit a *monthly* report to the  
7 Department of Justice of all of those transactions:

- 8 (1) Phenyl-2-propanone.
- 9 (2) Methylamine.
- 10 (3) Ethylamine.
- 11 (4) D-lysergic acid.
- 12 (5) Ergotamine tartrate.
- 13 (6) Diethyl malonate.
- 14 (7) Malonic acid.
- 15 (8) Ethyl malonate.
- 16 (9) Barbituric acid.
- 17 (10) Piperidine.
- 18 (11) N-acetylanthranilic acid.
- 19 (12) Pyrrolidine.
- 20 (13) Phenylacetic acid.
- 21 (14) Anthranilic acid.
- 22 (15) Morpholine.
- 23 (16) Ephedrine.
- 24 (17) Pseudoephedrine.

- 1 (18) Norpseudoephedrine.
- 2 (19) Phenylpropanolamine.
- 3 (20) Propionic anhydride.
- 4 (21) Isosafrole.
- 5 (22) Safrole.
- 6 (23) Piperonal.
- 7 (24) Thionylchloride.
- 8 (25) Benzyl cyanide.
- 9 (26) Ergonovine maleate.
- 10 (27) N-methylephedrine.
- 11 (28) N-ethylephedrine.
- 12 (29) N-methylpseudoephedrine.
- 13 (30) N-ethylpseudoephedrine.
- 14 (31) Chloroephedrine.
- 15 (32) Chloropseudoephedrine.
- 16 (33) Hydriodic acid.
- 17 (34) Gamma-butyrolactone, including butyrolactone;  
18 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;  
19 dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;  
20 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;  
21 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone  
22 with Chemical Abstract Service number (96-48-0).
- 23 (35) 1,4-butanediol, including butanediol; butane-1,4-diol;  
24 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;  
25 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene  
26 1,4-diol with Chemical Abstract Service number (110-63-4).
- 27 (36) Red phosphorus, including white phosphorus,  
28 hypophosphorous acid and its salts, ammonium hypophosphite,  
29 calcium hypophosphite, iron hypophosphite, potassium  
30 hypophosphite, manganese hypophosphite, magnesium  
31 hypophosphite, sodium hypophosphite, and phosphorous acid and  
32 its salts.
- 33 (37) Iodine or tincture of iodine.
- 34 (38) Any of the substances listed by the Department of Justice  
35 in regulations promulgated pursuant to subdivision (b).
- 36 (b) The Department of Justice may adopt rules and regulations  
37 in accordance with Chapter 3.5 (commencing with Section 11340)  
38 of Part 1 of Division 3 of Title 2 of the Government Code that add  
39 substances to subdivision (a) if the substance is a precursor to a  
40 controlled substance and delete substances from subdivision (a).

1 However, no regulation adding or deleting a substance shall have  
2 any effect beyond March 1 of the year following the calendar year  
3 during which the regulation was adopted.

4 (c) (1) (A) Any manufacturer, wholesaler, retailer, or other  
5 person or entity in this state, prior to selling, transferring, or  
6 otherwise furnishing any substance specified in subdivision (a) to  
7 any person or business entity in this state or any other state, shall  
8 require (A) a letter of authorization from that person or business  
9 entity that includes the currently valid business license number or  
10 federal Drug Enforcement Administration (DEA) registration  
11 number, the address of the business, and a full description of how  
12 the substance is to be used, and (B) proper identification from the  
13 purchaser. The manufacturer, wholesaler, retailer, or other person  
14 or entity in this state shall retain this information in a readily  
15 available manner for three years. The requirement for a full  
16 description of how the substance is to be used does not require the  
17 person or business entity to reveal their chemical processes that  
18 are typically considered trade secrets and proprietary information.

19 (B) For the purposes of this paragraph, “proper identification”  
20 for in-state or out-of-state purchasers includes two or more of the  
21 following: federal tax identification number; seller’s permit  
22 identification number; city or county business license number;  
23 license issued by the ~~California Department of Health Services~~  
24 *State Department of Public Health*; registration number issued by  
25 the ~~Federal~~ federal Drug Enforcement Administration; precursor  
26 business permit number issued by the Bureau of Narcotic  
27 Enforcement of the ~~California~~ Department of Justice; driver’s  
28 license; or other identification issued by a state.

29 (2) (A) Any manufacturer, wholesaler, retailer, or other person  
30 or entity in this state that exports a substance specified in  
31 subdivision (a) to any person or business entity located in a foreign  
32 country shall, on or before the date of exportation, submit to the  
33 Department of Justice a notification of that transaction, which  
34 notification shall include the name and quantity of the substance  
35 to be exported and the name, address, and, if assigned by the  
36 foreign country or subdivision thereof, business identification  
37 number of the person or business entity located in a foreign country  
38 importing the substance.

39 (B) The department may authorize the submission of the  
40 notification on a monthly basis with respect to repeated, regular

1 transactions between an exporter and an importer involving a  
2 substance specified in subdivision (a), if the department determines  
3 that a pattern of regular supply of the substance exists between the  
4 exporter and importer and that the importer has established a record  
5 of utilization of the substance for lawful purposes.

6 (d) (1) Any manufacturer, wholesaler, retailer, or other person  
7 or entity in this state that sells, transfers, or otherwise furnishes a  
8 substance specified in subdivision (a) to a person or business entity  
9 in this state or any other state shall, not less than 21 days prior to  
10 delivery of the substance, submit a report of the transaction, which  
11 includes the identification information specified in subdivision  
12 (c), to the Department of Justice. The Department of Justice may  
13 authorize the submission of the reports on a monthly basis with  
14 respect to repeated, regular transactions between the furnisher and  
15 the recipient involving the substance or substances if the  
16 Department of Justice determines that a pattern of regular supply  
17 of the substance or substances exists between the manufacturer,  
18 wholesaler, retailer, or other person or entity that sells, transfers,  
19 or otherwise furnishes the substance or substances and the recipient  
20 of the substance or substances, and the recipient has established a  
21 record of utilization of the substance or substances for lawful  
22 purposes.

23 (2) The person selling, transferring, or otherwise furnishing any  
24 substance specified in subdivision (a) shall affix his or her signature  
25 or otherwise identify himself or herself as a witness to the  
26 identification of the purchaser or purchasing individual, and shall,  
27 if a common carrier is used, maintain a manifest of the delivery  
28 to the purchaser for three years.

29 (e) This section shall not apply to any of the following:

30 (1) Any pharmacist or other authorized person who sells or  
31 furnishes a substance upon the prescription of a physician, dentist,  
32 podiatrist, or veterinarian.

33 (2) Any physician, dentist, podiatrist, or veterinarian who  
34 administers or furnishes a substance to his or her patients.

35 ~~(3) Any manufacturer or wholesaler licensed by the California~~  
36 ~~State Board of Pharmacy that sells, transfers, or otherwise furnishes~~  
37 ~~a substance to a licensed pharmacy, physician, dentist, podiatrist,~~  
38 ~~or veterinarian, or a retail distributor as defined in subdivision (h);~~  
39 ~~provided that the manufacturer or wholesaler submits records of~~

1 ~~any suspicious sales or transfers as determined by the Department~~  
2 ~~of Justice.~~

3 ~~(4)~~

4 (3) Any analytical research facility that ~~is registered with the~~  
5 ~~federal Drug Enforcement Administration~~ *purchases no more than*  
6 *200 milliliters of a liquid controlled chemical substance or one*  
7 *kilogram of a solid controlled chemical substance, except in the*  
8 ~~case of the United States Department purchase of Justice.~~  
9 *ephedrine, pseudoephedrine, norpseudoephedrine, or*  
10 *phenylpropanolamine, in which case the facility may purchase no*  
11 *more than nine solid grams.*

12 ~~(5)~~

13 (4) A state-licensed health care facility that administers or  
14 furnishes a substance to its patients.

15 ~~(6)~~

16 (5) (A) Any sale, transfer, furnishing, or receipt of any product  
17 that contains ephedrine, pseudoephedrine, norpseudoephedrine,  
18 or phenylpropanolamine and which is lawfully sold, transferred,  
19 or furnished over the counter without a prescription pursuant to  
20 the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et  
21 seq.) or regulations adopted thereunder. However, this section  
22 shall apply to preparations in solid or liquid dosage form, except  
23 pediatric liquid forms, as defined, containing ephedrine,  
24 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine  
25 where the individual transaction involves more than three packages  
26 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,  
27 or phenylpropanolamine.

28 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or  
29 phenylpropanolamine product subsequently removed from  
30 exemption pursuant to Section 814 of Title 21 of the United States  
31 Code shall similarly no longer be exempt from any state reporting  
32 or permitting requirement, unless otherwise reinstated pursuant to  
33 subdivision (d) ~~or (e)~~ of Section 814 of Title 21 of the United States  
34 Code as an exempt product.

35 ~~(7)~~

36 (6) The sale, transfer, furnishing, or receipt of any betadine or  
37 povidone solution with an iodine content not exceeding 1 percent  
38 in containers of eight ounces or less, or any tincture of iodine not  
39 exceeding 2 percent in containers of one ounce or less, that is sold  
40 over the counter.

~~(8)~~

(7) Any transfer of a substance specified in subdivision (a) for purposes of lawful disposal as waste.

(f) (1) Any person specified in subdivision (a) or (d) who does not submit a report as required by that subdivision or who knowingly submits a report with false or fictitious information shall be punished by imprisonment in a county jail not exceeding six months, by a fine not exceeding five thousand dollars (\$5,000), or by both the fine and imprisonment.

(2) Any person specified in subdivision (a) or (d) who has previously been convicted of a violation of paragraph (1) shall, upon a subsequent conviction thereof, be punished by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one hundred thousand dollars (\$100,000), or by both the fine and imprisonment.

(g) (1) Except as otherwise provided in subparagraph (A) of paragraph (6) of subdivision (e), it is unlawful for any manufacturer, wholesaler, retailer, or other person to sell, transfer, or otherwise furnish a substance specified in subdivision (a) to a person under 18 years of age.

(2) Except as otherwise provided in subparagraph (A) of paragraph (6) of subdivision (e), it is unlawful for any person under 18 years of age to possess a substance specified in subdivision (a).

(3) Notwithstanding any other law, it is unlawful for any retail distributor to (i) sell in a single transaction more than three packages of a product that he or she knows to contain ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, or (ii) knowingly sell more than nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, other than pediatric liquids as defined. Except as otherwise provided in this section, the three package per transaction limitation or nine gram per transaction limitation imposed by this paragraph shall apply to any product that is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or regulations adopted thereunder, unless exempted from the requirements of the federal Controlled Substances Act by the federal Drug Enforcement Administration pursuant to Section 814 of Title 21 of the United States Code.

(4) (A) A first violation of this subdivision is a misdemeanor.

(B) Any person who has previously been convicted of a violation of this subdivision shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(h) For the purposes of this article, the following terms have the following meanings:

(1) “Drug store” is any entity described in Code 5912 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(2) “General merchandise store” is any entity described in Codes 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(3) “Grocery store” is any entity described in Code 5411 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(4) “Pediatric liquid” means a nonencapsulated liquid whose unit measure according to product labeling is stated in milligrams, ounces, or other similar measure. In no instance shall the dosage units exceed 15 milligrams of phenylpropanolamine or pseudoephedrine per five milliliters of liquid product, except for liquid products primarily intended for administration to children under two years of age for which the recommended dosage unit does not exceed two milliliters and the total package content does not exceed one fluid ounce.

(5) “Retail distributor” means a grocery store, general merchandise store, drugstore, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products, are limited exclusively to the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products for personal use both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. “Retail distributor” includes an entity that makes a direct sale, but does not include the parent company of that entity if the company is not involved in direct sales regulated by this article.

(6) “Sale for personal use” means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, norpseudoephedrine, or



1 phenylpropanolamine in dosages at or below that specified in  
2 paragraph (3) of subdivision (g). “Sale for personal use” also  
3 includes the sale of those products to employers to be dispensed  
4 to employees from first-aid kits or medicine chests.

5 (i) It is the intent of the Legislature that this section shall  
6 preempt all local ordinances or regulations governing the sale by  
7 a retail distributor of over-the-counter products containing  
8 ephedrine, pseudoephedrine, norpseudoephedrine, or  
9 phenylpropanolamine.

10 (j) *This section does not grant to the department, nor shall the*  
11 *department have, unless it has been granted by another provision*  
12 *of law, the authority to make any examination of the books or*  
13 *records, or to visit and inspect the business premises of any*  
14 *manufacturer, wholesaler, retailer, or other person or entity*  
15 *governed by this section.*

16 (k) *This section shall remain in effect only until January 1, 2015,*  
17 *and as of that date is repealed, unless a later enacted statute, that*  
18 *is enacted before January 1, 2015, deletes or extends that date.*

19 SEC. 2. Section 11100 is added to the Health and Safety Code,  
20 to read:

21 11100. (a) Any manufacturer, wholesaler, retailer, or other  
22 person or entity in this state that sells, transfers, or otherwise  
23 furnishes any of the following substances to any person or entity  
24 in this state or any other state shall submit a report to the  
25 Department of Justice of all of those transactions:

- 26 (1) Phenyl-2-propanone.
- 27 (2) Methylamine.
- 28 (3) Ethylamine.
- 29 (4) D-lysergic acid.
- 30 (5) Ergotamine tartrate.
- 31 (6) Diethyl malonate.
- 32 (7) Malonic acid.
- 33 (8) Ethyl malonate.
- 34 (9) Barbituric acid.
- 35 (10) Piperidine.
- 36 (11) N-acetylanthranilic acid.
- 37 (12) Pyrrolidine.
- 38 (13) Phenylacetic acid.
- 39 (14) Anthranilic acid.
- 40 (15) Morpholine.

- 1 (16) Ephedrine.
- 2 (17) Pseudoephedrine.
- 3 (18) Norpseudoephedrine.
- 4 (19) Phenylpropanolamine.
- 5 (20) Propionic anhydride.
- 6 (21) Isosafrole.
- 7 (22) Safrole.
- 8 (23) Piperonal.
- 9 (24) Thionylchloride.
- 10 (25) Benzyl cyanide.
- 11 (26) Ergonovine maleate.
- 12 (27) N-methylephedrine.
- 13 (28) N-ethylephedrine.
- 14 (29) N-methylpseudoephedrine.
- 15 (30) N-ethylpseudoephedrine.
- 16 (31) Chloroephedrine.
- 17 (32) Chloropseudoephedrine.
- 18 (33) Hydriodic acid.
- 19 (34) Gamma-butyrolactone, including butyrolactone;  
20 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;  
21 dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;  
22 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;  
23 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone  
24 with Chemical Abstract Service number (96-48-0).
- 25 (35) 1,4-butanediol, including butanediol; butane-1,4-diol;  
26 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;  
27 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene  
28 1,4-diol with Chemical Abstract Service number (110-63-4).
- 29 (36) Red phosphorus, including white phosphorus,  
30 hypophosphorous acid and its salts, ammonium hypophosphite,  
31 calcium hypophosphite, iron hypophosphite, potassium  
32 hypophosphite, manganese hypophosphite, magnesium  
33 hypophosphite, sodium hypophosphite, and phosphorous acid and  
34 its salts.
- 35 (37) Iodine or tincture of iodine.
- 36 (38) Any of the substances listed by the Department of Justice  
37 in regulations promulgated pursuant to subdivision (b).
- 38 (b) The Department of Justice may adopt rules and regulations  
39 in accordance with Chapter 3.5 (commencing with Section 11340)  
40 of Part 1 of Division 3 of Title 2 of the Government Code that add

1 substances to subdivision (a) if the substance is a precursor to a  
2 controlled substance and delete substances from subdivision (a).  
3 However, no regulation adding or deleting a substance shall have  
4 any effect beyond March 1 of the year following the calendar year  
5 during which the regulation was adopted.

6 (c) (1) (A) Any manufacturer, wholesaler, retailer, or other  
7 person or entity in this state, prior to selling, transferring, or  
8 otherwise furnishing any substance specified in subdivision (a) to  
9 any person or business entity in this state or any other state, shall  
10 require:

11 (i) A letter of authorization from that person or business entity  
12 that includes the currently valid business license number or federal  
13 Drug Enforcement Administration (DEA) registration number, the  
14 address of the business, and a full description of how the substance  
15 is to be used.

16 (ii) Proper identification from the purchaser. The manufacturer,  
17 wholesaler, retailer, or other person or entity in this state shall  
18 retain this information in a readily available manner for three years.  
19 The requirement for a full description of how the substance is to  
20 be used does not require the person or business entity to reveal  
21 their chemical processes that are typically considered trade secrets  
22 and proprietary information.

23 (B) For the purposes of this paragraph, “proper identification”  
24 for in-state or out-of-state purchasers includes two or more of the  
25 following: federal tax identification number; seller’s permit  
26 identification number; city or county business license number;  
27 license issued by the State Department of Public Health;  
28 registration number issued by the federal Drug Enforcement  
29 Administration; precursor business permit number issued by the  
30 Bureau of Narcotic Enforcement of the Department of Justice;  
31 driver’s license; or other identification issued by a state.

32 (2) (A) Any manufacturer, wholesaler, retailer, or other person  
33 or entity in this state that exports a substance specified in  
34 subdivision (a) to any person or business entity located in a foreign  
35 country shall, on or before the date of exportation, submit to the  
36 Department of Justice a notification of that transaction, which  
37 notification shall include the name and quantity of the substance  
38 to be exported and the name, address, and, if assigned by the  
39 foreign country or subdivision thereof, business identification

1 number of the person or business entity located in a foreign country  
2 importing the substance.

3 (B) The department may authorize the submission of the  
4 notification on a monthly basis with respect to repeated, regular  
5 transactions between an exporter and an importer involving a  
6 substance specified in subdivision (a), if the department determines  
7 that a pattern of regular supply of the substance exists between the  
8 exporter and importer and that the importer has established a record  
9 of utilization of the substance for lawful purposes.

10 (d) (1) Any manufacturer, wholesaler, retailer, or other person  
11 or entity in this state that sells, transfers, or otherwise furnishes a  
12 substance specified in subdivision (a) to a person or business entity  
13 in this state or any other state shall, not less than 21 days prior to  
14 delivery of the substance, submit a report of the transaction, which  
15 includes the identification information specified in subdivision  
16 (c), to the Department of Justice. The Department of Justice may  
17 authorize the submission of the reports on a monthly basis with  
18 respect to repeated, regular transactions between the furnisher and  
19 the recipient involving the substance or substances if the  
20 Department of Justice determines that a pattern of regular supply  
21 of the substance or substances exists between the manufacturer,  
22 wholesaler, retailer, or other person or entity that sells, transfers,  
23 or otherwise furnishes the substance or substances and the recipient  
24 of the substance or substances, and the recipient has established a  
25 record of utilization of the substance or substances for lawful  
26 purposes.

27 (2) The person selling, transferring, or otherwise furnishing any  
28 substance specified in subdivision (a) shall affix his or her signature  
29 or otherwise identify himself or herself as a witness to the  
30 identification of the purchaser or purchasing individual, and shall,  
31 if a common carrier is used, maintain a manifest of the delivery  
32 to the purchaser for three years.

33 (e) This section shall not apply to any of the following:

34 (1) Any pharmacist or other authorized person who sells or  
35 furnishes a substance upon the prescription of a physician, dentist,  
36 podiatrist, or veterinarian.

37 (2) Any physician, dentist, podiatrist, or veterinarian who  
38 administers or furnishes a substance to his or her patients.

39 (3) Any manufacturer or wholesaler licensed by the California  
40 State Board of Pharmacy that sells, transfers, or otherwise furnishes

1 a substance to a licensed pharmacy, physician, dentist, podiatrist,  
2 or veterinarian, or a retail distributor as defined in subdivision (h),  
3 provided that the manufacturer or wholesaler submits records of  
4 any suspicious sales or transfers as determined by the Department  
5 of Justice.

6 (4) Any analytical research facility that is registered with the  
7 federal Drug Enforcement Administration of the United States  
8 Department of Justice.

9 (5) A state-licensed health care facility that administers or  
10 furnishes a substance to its patients.

11 (6) (A) Any sale, transfer, furnishing, or receipt of any product  
12 that contains ephedrine, pseudoephedrine, norpseudoephedrine,  
13 or phenylpropanolamine and which is lawfully sold, transferred,  
14 or furnished over the counter without a prescription pursuant to  
15 the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et  
16 seq.) or regulations adopted thereunder. However, this section  
17 shall apply to preparations in solid or liquid dosage form, except  
18 pediatric liquid forms, as defined, containing ephedrine,  
19 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine  
20 where the individual transaction involves more than three packages  
21 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,  
22 or phenylpropanolamine.

23 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or  
24 phenylpropanolamine product subsequently removed from  
25 exemption pursuant to Section 814 of Title 21 of the United States  
26 Code shall similarly no longer be exempt from any state reporting  
27 or permitting requirement, unless otherwise reinstated pursuant to  
28 subdivision (d) of Section 814 of Title 21 of the United States  
29 Code as an exempt product.

30 (7) The sale, transfer, furnishing, or receipt of any betadine or  
31 povidone solution with an iodine content not exceeding 1 percent  
32 in containers of eight ounces or less, or any tincture of iodine not  
33 exceeding 2 percent in containers of one ounce or less, that is sold  
34 over the counter.

35 (8) Any transfer of a substance specified in subdivision (a) for  
36 purposes of lawful disposal as waste.

37 (f) (1) Any person specified in subdivision (a) or (d) who does  
38 not submit a report as required by that subdivision or who  
39 knowingly submits a report with false or fictitious information  
40 shall be punished by imprisonment in a county jail not exceeding

1 six months, by a fine not exceeding five thousand dollars (\$5,000),  
2 or by both the fine and imprisonment.

3 (2) Any person specified in subdivision (a) or (d) who has  
4 previously been convicted of a violation of paragraph (1) shall,  
5 upon a subsequent conviction thereof, be punished by  
6 imprisonment in the state prison, or by imprisonment in a county  
7 jail not exceeding one year, by a fine not exceeding one hundred  
8 thousand dollars (\$100,000), or by both the fine and imprisonment.

9 (g) (1) Except as otherwise provided in subparagraph (A) of  
10 paragraph (6) of subdivision (e), it is unlawful for any  
11 manufacturer, wholesaler, retailer, or other person to sell, transfer,  
12 or otherwise furnish a substance specified in subdivision (a) to a  
13 person under 18 years of age.

14 (2) Except as otherwise provided in subparagraph (A) of  
15 paragraph (6) of subdivision (e), it is unlawful for any person under  
16 18 years of age to possess a substance specified in subdivision (a).

17 (3) Notwithstanding any other law, it is unlawful for any retail  
18 distributor to:

19 (A) Sell in a single transaction more than three packages of a  
20 product that he or she knows to contain ephedrine,  
21 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

22 (B) Knowingly sell more than nine grams of ephedrine,  
23 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,  
24 other than pediatric liquids as defined.

25 Except as otherwise provided in this section, the three package  
26 per transaction limitation or nine gram per transaction limitation  
27 imposed by this paragraph shall apply to any product that is  
28 lawfully sold, transferred, or furnished over the counter without a  
29 prescription pursuant to the federal Food, Drug, and Cosmetic Act  
30 (21 U.S.C. Sec. 301 et seq.), or regulations adopted thereunder,  
31 unless exempted from the requirements of the federal Controlled  
32 Substances Act by the federal Drug Enforcement Administration  
33 pursuant to Section 814 of Title 21 of the United States Code.

34 (4) (A) A first violation of this subdivision is a misdemeanor.

35 (B) Any person who has previously been convicted of a violation  
36 of this subdivision shall, upon a subsequent conviction thereof, be  
37 punished by imprisonment in a county jail not exceeding one year,  
38 by a fine not exceeding ten thousand dollars (\$10,000), or by both  
39 the fine and imprisonment.

1 (h) For the purposes of this article, the following terms have  
2 the following meanings:

3 (1) “Drug store” is any entity described in Code 5912 of the  
4 Standard Industrial Classification (SIC) Manual published by the  
5 United States Office of Management and Budget, 1987 edition.

6 (2) “General merchandise store” is any entity described in Codes  
7 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial  
8 Classification (SIC) Manual published by the United States Office  
9 of Management and Budget, 1987 edition.

10 (3) “Grocery store” is any entity described in Code 5411 of the  
11 Standard Industrial Classification (SIC) Manual published by the  
12 United States Office of Management and Budget, 1987 edition.

13 (4) “Pediatric liquid” means a nonencapsulated liquid whose  
14 unit measure according to product labeling is stated in milligrams,  
15 ounces, or other similar measure. In no instance shall the dosage  
16 units exceed 15 milligrams of phenylpropanolamine or  
17 pseudoephedrine per five milliliters of liquid product, except for  
18 liquid products primarily intended for administration to children  
19 under two years of age for which the recommended dosage unit  
20 does not exceed two milliliters and the total package content does  
21 not exceed one fluid ounce.

22 (5) “Retail distributor” means a grocery store, general  
23 merchandise store, drugstore, or other related entity, the activities  
24 of which, as a distributor of ephedrine, pseudoephedrine,  
25 norpseudoephedrine, or phenylpropanolamine products, are limited  
26 exclusively to the sale of ephedrine, pseudoephedrine,  
27 norpseudoephedrine, or phenylpropanolamine products for personal  
28 use both in number of sales and volume of sales, either directly to  
29 walk-in customers or in face-to-face transactions by direct sales.  
30 “Retail distributor” includes an entity that makes a direct sale, but  
31 does not include the parent company of that entity if the company  
32 is not involved in direct sales regulated by this article.

33 (6) “Sale for personal use” means the sale in a single transaction  
34 to an individual customer for a legitimate medical use of a product  
35 containing ephedrine, pseudoephedrine, norpseudoephedrine, or  
36 phenylpropanolamine in dosages at or below that specified in  
37 paragraph (3) of subdivision (g). “Sale for personal use” also  
38 includes the sale of those products to employers to be dispensed  
39 to employees from first-aid kits or medicine chests.

1 (i) It is the intent of the Legislature that this section shall  
2 preempt all local ordinances or regulations governing the sale by  
3 a retail distributor of over-the-counter products containing  
4 ephedrine, pseudoephedrine, norpseudoephedrine, or  
5 phenylpropanolamine.

6 (j) This section shall become operative on January 1, 2015.

7 SEC. 3. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.